

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Daniel A. Ferrie,)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	04-12068 JLT
vs.)	
)	
K Mart Corporation,)	
)	
Defendant.)	

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

Now comes the Plaintiff, Daniel A. Ferrie, by his attorney, and, pursuant to Fed.R.Civ.P. 34, requests that the following documents be produced for inspection and/or copying at the Law Office of Paul F. Wood, P.C., 45 Bowdoin Street, Boston, MA 02114.

Definitions and Instructions

____ Pursuant to Local Rule 26.5, The Uniform Definitions in Discovery Requests, the full text of Local Rule 26.5(C), Definitions, is deemed incorporated by reference in this discovery request. Additionally, the terms specific to this document are defined as:

"You", "Your", and "K Mart", mean the Defendant, K Mart Corporation, its present and former officers, employees, agents, and predecessor and successor corporations.

"Ferrie" and "Plaintiff", mean the Plaintiff, Daniel A. Ferrie.

"Complaint", means the Complaint and Demand for Trial by Jury in the within action.

"Personnel Record", is given the definition set forth in Massachusetts General Laws, Chapter 149 § 52C.

With regard to all information and/or documents withheld or objected to on the grounds of privilege, work product, trade secret, or for any other reason, you are instructed to describe the nature of the documents, communications or things not produced or disclosed in a manner that

will enable the Plaintiff and the Court to assess the applicability of the privilege or protection asserted.

If any documents responsive to these Requests have been destroyed or lost, or cannot be accounted for, you are instructed to:

- a) identify each and every document or category of documents which were destroyed or lost, or are unaccounted for;
- b) state when you believe the document or category of documents was destroyed or lost, or became unaccounted for;
- c) state what reason or explanation you have, if any, for the destruction, loss, or inability to account for the documents identified in sub-part (a); and
- d) identify the persons who are most knowledgeable about the information in sub-parts (a) through (c) of this instruction.

Documents Requested

All Documents which were, at any time, or currently are, within your care, custody, possession or control, concerning:

- 1) All documents concerning the promotion of K Mart Employees in Massachusetts to the position of Store Manager and District Manager positions during and subsequent to the period that Ferrie was employed by K Mart, including without limitation all documents which identify the age of applicants and selectees.
- 2) All documents concerning the promotion of K Mart Employees in the New England States, New York and New Jersey to the position of Store Manager and District Manager positions during and subsequent to the period that Ferrie was employed by K Mart, including without limitation all documents which identify the age of applicants and selectees.

- 3) All documents which identify all K Mart Store Managers and District Managers in Massachusetts at any time during and subsequent to Ferrie's employment with K Mart, including without limitation all documents which identify the age of the said employees.
- 4) All documents which identify all K Mart Store Managers and District Managers in the New England States, New York and New Jersey at any time during and subsequent to Ferrie's employment with K Mart, including without limitation all documents which identify the age of the said employees.
- 5) All documents which identify K Mart employees who filed workers compensation claims in Massachusetts during and subsequent to Ferrie's employment with K Mart, including without limitation all documents which identify each such employee's employment status with K Mart.
- 6) All documents concerning the performance ranking of Store Managers in Massachusetts for all periods that Ferrie was employed by K Mart.
- 7) All documents concerning the performance ranking of K Mart Stores in Massachusetts for all periods that Ferrie was employed by K Mart.
- 8) All documents concerning all allegations, whether formal or informal, of discrimination in employment on the basis of age, for violation of the Family Medical Leave Act and/or

for violation of Massachusetts General Laws c. 152 § 75B, including claims of retaliation, regardless of whether a lawsuit and/or administrative action was filed, made David Nappier, Jon Swank and/or Ryan Shea at any time, by any former, present, or prospective employee of K Mart.

- 9) All documents concerning all allegations, whether formal or informal, of discrimination in employment on the basis of age, for violation of the Family Medical Leave Act and/or for violation of Massachusetts General Laws c. 152 § 75B, including claims of retaliation, regardless of whether a lawsuit and/or administrative action was filed, made against K Mart concerning conduct in any of its Massachusetts stores, at any time during or subsequent to Ferrie's employment with K Mart, by any former, present, or prospective employee of K Mart.
- 10) All documents concerning all allegations, whether formal or informal, of discrimination in employment on the basis of age, for violation of the Family Medical Leave Act and/or for violation of Massachusetts General Laws c. 152 § 75B, including claims of retaliation, regardless of whether a lawsuit and/or administrative action was filed, made against K Mart concerning conduct in any of its New England, New York and/or New Jersey stores, at any time during or subsequent to Ferrie's employment with K Mart, by any former, present, or prospective employee of K Mart.

- 11) All documents which identify all persons employed by K Mart under Ferrie's supervision at any time during the period that Ferrie was employed by K Mart.
- 12) All documents concerning all communications between K Mart and the Massachusetts Division of Employment and Training concerning Ferrie.
- 13) All documents concerning all communications between K Mart and the MCAD and/or United States Equal Employment Opportunity Commission concerning Ferrie.
- 14) All documents concerning all K Mart employee manuals in force at any time during or subsequent to Ferrie's employment with K Mart.

Respectfully Submitted,
Daniel A. Ferrie
By his attorney,

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